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WARNER NORCROSS & JUDD LLP

ATTORNEYS AT LAW

900 OLD KENT BUILDING  
111 LYON STREET, N.W.  
GRAND RAPIDS, MICHIGAN 49503-2487  
TELEPHONE (616) 752-2000  
FAX (616) 752-2500

EUGENE E. SMARY

DIRECT DIAL NUMBER  
(616) 752-2129  
SMARYEE@wnj.com

December 10, 1997

Mr. Frank Biros  
U.S. Department of Justice  
Environmental and Natural Resource Division  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20530

Mr. Kurt Lindland  
Assistant Regional Counsel  
U.S. EPA  
Region V  
77 West Jackson, 14th Floor  
Chicago, Illinois 60604

Re: Albion-Sheridan Township Landfill



Dear Frank and Kurt:

As promised during our meeting on Monday, enclosed is a copy of the materials developed by the Michigan Department of Environmental Quality to implement Section 9a of Part 201 of Michigan's Natural Resources and Environmental Protection Act which created the "Municipal Landfill Cost-Share Grant Program." The application was required to be submitted by September 30, 1997. It is my understanding that the Cost-Share Grant Program will be available again next year, but at a lower funded amount.

Sincerely,

A handwritten signature in cursive script, appearing to read "Eugene E. Smary".

Eugene E. Smary

lap

Enclosure

cc (w/enc): Rick Geiger  
Ceil Price

6.6

**APPLICATION FOR THE**

**MUNICIPAL LANDFILL**

**COST-SHARE GRANT PROGRAM**

**APPLICATION DEADLINE: SEPTEMBER 30, 1997**

Under authority of Section 20109a of Part 201 of  
the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

Environmental Response Division  
Michigan Department Of Environmental Quality  
P O BOX 30426  
300 South Washington Square  
Lansing Michigan 48909-7528



# MUNICIPAL LANDFILL COST-SHARE GRANT

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Section 20109a of Part 201 of Act 451



DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE DIVISION

## **MUNICIPAL LANDFILL COST-SHARE GRANT PROGRAM DESCRIPTION**

Section 20109a of Part 201 of Michigan's Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, created the municipal landfill cost-share grant program, and was approved by Governor John Engler on July 23, 1996. The grant will fund eligible response activities at municipal solid waste landfills that are listed on the national priority list ("Superfund NPL") or proposed for listing by July 23, 1997. Grants are awarded through the Michigan Department of Environmental Quality (DEQ) as approved by the Brownfield Redevelopment Board (The Board) pursuant to section 20109a. The Board consists of the following members: the Director of the Department of Environmental Quality, the Director of the Department of Management and Budget, and the Chief Executive Officer of the Jobs Commission. Six million dollars from the state's general funds have been appropriated to fund the grant program in fiscal year 1997, and two million dollars in fiscal year 1998. The program will be funded annually according to appropriations provided by the legislature.

Local units of government may apply for grants at eligible landfills, for reimbursement of eligible response activity costs they have accrued after July 23, 1996. Grants will be awarded up to 50% of eligible costs. Applications must be submitted by September 30, 1997. Each application will be reviewed for completeness, eligibility of costs, and relative priority. Grant award decisions will be made by the Board. Grant recipients will be required to enter into a contractual agreement prior to grant payment. Pending availability of funding, grants will be available each year for eligible costs not previously reimbursed.

Eligibility and application requirements are summarized on the following pages. Applicants are encouraged to review section 20109a of Part 201, attached as an appendix to this application form

This application form may be requested on a 3.5 inch diskette in Word for Windows by contacting ERD offices at (517) 373-9540. Questions regarding municipal landfill cost-share grants and the application process may be directed to:

**MUNICIPAL LANDFILL COST-SHARE GRANT PROGRAM  
ENVIRONMENTAL RESPONSE DIVISION  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
P O BOX 30426  
LANSING MI 48909-7926  
(517) 373-9540**

The Michigan Department of Environmental Quality (MDEQ) will not discriminate against any individual or group on the basis of race, sex, religion, age, national origin, color, marital status, disability or political beliefs. Questions or concerns should be directed to the MDEQ Office of Personnel Services, P.O. Box 30473, Lansing, MI 48909.

(EQP-4468 7/97)



DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE DIVISION

## MUNICIPAL LANDFILL COST-SHARE GRANT APPLICATION INSTRUCTIONS

### Eligibility for Funding

#### Eligibility Requirements

To be eligible for a municipal landfill cost-share grant, all of the following requirements shall be met: [Sec 20109a(3)]

- The applicant must be a local unit of government. "Local unit of government" means a county, city, township, or village, an agency of a local unit of government, an authority or any other public body or entity created by or pursuant to state law. Local unit of government does not include the state or federal government or a state or federal agency. [Sec. 20101(1)(x)]
- A local unit of government may not receive more than 1 grant for the same municipal landfill during each application cycle. [Sec 20109a(8)]
- Applicants must submit a complete application on the provided form by the deadline of **September 30, 1997**. [Sec 20109a(3)]
- Grant funding is only for eligible response activity costs at a municipal solid waste landfill. "Municipal solid waste landfill" means a landfill that as of July 23, 1997 is on the national priority list of the Comprehensive Environmental Response, Compensation, And Liability Act of 1980, Public Law 96-510, 94 Stat. 2767 (CERCLA), or is proposed by the governor for inclusion on the national priority list. [Sec. 20109a(15)(a)&(b)]
- Applications must be for eligible response activity costs, as defined in Section 20109a(15), that have been incurred by the applicant on or after July 23, 1996 and before September 30, 1997. [Sec 20109a(15)]

# MUNICIPAL LANDFILL COST-SHARE GRANT APPLICATION INSTRUCTIONS

## Eligible Costs

### Funding of Eligible Costs

- “Eligible costs” or “eligible response activity costs” means response activity costs that meet all of the following criteria: [Sec. 20109a(15)(c)]
  - a) Costs have been incurred by the applicant on or after July 23, 1996 and on or before September 30, 1997. (Applicants may submit outstanding invoices within this period in subsequent grant cycles. Pending availability of funding, grants will be available each year for eligible costs not previously reimbursed..)
  - b) Costs incurred are reasonable taking into consideration the rationale provided in the application, the existence of other persons liable under section 126 or CERCLA, and the need for the local unit of government to proceed with the response activity.
  - c) Costs are consistent with a work plan or remedial action plan that was approved by the department or the U.S. EPA or was ordered by a state or federal court *prior to* the work being conducted.
  - d) Costs were incurred for response activities that are part of a cost-effective remedy consistent with the requirements of Part 201.
  - e) Costs were incurred for work that was competitively bid.
  - f) Fees for the services of a licensed attorney are excluded from eligibility.
- A cost-share grant may be awarded up to 50% of the total eligible costs. [Sec 20109a(7)] If not all eligible costs are funded in an application during any given funding cycle, the applicant may re-apply for the remainder of the costs the following year in an update application form.
- Reimbursement of eligible costs will be determined by information supplied in an attachment to the application form, including itemized invoices and supporting documentation, and a demonstration of consistency with DEQ or EPA approved activities prior to work being conducted.
- There is no limitation on the amount of funding requested from a cost-share grant, however, funds will be allocated by the board based upon the amount of funds appropriated and the criteria established for prioritization.
- If a grant recipient receives money or any form of compensation from any other source to pay for or compensate the local unit of government for response activity costs, the recipient shall provide timely notification to the Department and shall repay the department based upon the formula described in section 20109a(9).

# MUNICIPAL LANDFILL COST-SHARE GRANT APPLICATION INSTRUCTIONS

## Application Review and Award Process

### Submit a Complete Application

- Applicants must submit a complete application on a current application form by the deadline of **September 30, 1997**, as established by the Brownfield Redevelopment Board.  
[Sec 20109a(3)]
- Please answer every question on the application form with currently known information and ensure that your application is complete before it is submitted to the DEQ. Remember to include all of the attachments and to have the certification page signed.
- Please submit **three complete copies** of applications to the DEQ, including attachments. Submit printed applications in binders with each section and attachment separated by labeled tabs. No spiral binders, please.
- Applications submitted in subsequent application cycles, by the same applicant for the same landfill, only need to include updated information that was not in the original application.  
[Sec 20109a(6)]

### Review of Applications

- Applicants will receive a letter confirming receipt of the application, and will be contacted if the application is incomplete or if the proposed landfill is not eligible.
- Eligible landfills will be prioritized and allocated for grant funding by the board according to the following criteria. [Sec. 20109a(5)]
  - (a) Facilities posing a risk to public health.
  - (b) Facilities posing a risk to the environment.
  - (c) Facilities in which the local unit of government has taken steps to identify environmental contamination at the facility or caused by the facility or facilities in which remedial action measures have been implemented in accordance with a remedial action plan approved by the department or the United States Environmental Protection Agency.
  - (d) Facilities in which the local unit of government has implemented appropriate measures to effect proper closure of the facility.
- The Board intends to make funding decisions by December 30, 1997.

# **MUNICIPAL LANDFILL COST-SHARE GRANT APPLICATION INSTRUCTIONS**

## **Grant Agreement and Payment of Award**

### **When an Applicant is Awarded a Grant**

- The board will forward a written grant offer to successful applicants.
- A grant agreement will be sent to approved applicants with the written grant offer. The agreement is a contractual document entered into with the DEQ. The agreement identifies the grant recipient and eligible landfill, summarizes grant requirements, lists board-approved reimbursable eligible costs, outlines grant repayment provisions under subsection (9), and explains other provisions necessary to award funding.
- The grant agreement must contain a resolution passed by the governing body of the local unit of government committing to make reasonable efforts to pursue any insurance coverage for the eligible costs. [Sec 20109a(10)]
- Approved applicants must sign the grant agreement within 90 days of a written grant offer by the board in order to receive a grant. If a local unit of government fails to sign a grant agreement within 90 days of a written grant offer by the board, the board may cancel the grant offer. [Sec 20109a(12)]
- After signing, the grant recipient returns the grant agreement to the board for signatures. The grant goes into effect after the agreement has been signed by the State.
- Upon execution of a grant agreement, grant funds will be disbursed by the DEQ within 45 days. [Sec. 20109a(11)] A check will be remitted to the treasurer of the local unit of government. A federal ID number will be required prior to release of funds.



# **MUNICIPAL LANDFILL COST-SHARE GRANT APPLICATION INSTRUCTIONS**

## **Other Compensation for Response Activity Costs**

A recipient of a cost-share grant under this section has an obligation to provide timely notification to the department, pursuant to Sec. 20109a(9), if it receives money or any other form of compensation from any other source to pay for or compensate the local unit of government for any of the response activity costs for which it is liable. This includes but is not limited to in kind contributions. Other compensation received by a grant recipient must be declared at time of receipt. Funds repaid to the department will be placed into the cleanup and redevelopment fund.

## **Liable Parties**

- The existence of this grant program does not in any way affect the liability of any person under this part or any other state or federal law. The state, the board, and the fund are not liable or in any way obligated to make grants for eligible costs if sufficient funding is not appropriated. The availability of this program shall not be used by any liable person as a basis to delay necessary response activities. [Sec 20109a(13)]
- Funds granted to local units of government under this section shall be considered response activity costs incurred by the state. The state may pursue recovery or a claim for contribution of the grant funds from persons other than the grant recipient who are liable under section 20126 of Part 201. [Sec 20109a(14)]
- A local unit of government may pursue recovery or a claim for contribution from persons liable under section 20126 of Part 201 for the costs it has incurred but for which it has not received grant funds. This will not affect a local unit of government's eligibility to make a claim for insurance for any response activity costs, including the costs for which it received a grant. [Sec 20109a(14)]

## **Subsequent Application Updates**

- Once a complete application has been approved by the board, applications submitted by the same applicant for the same landfill, in subsequent application cycles need only include updated information that was not in the original application, including an updated list of eligible costs, supporting documentation, and any other information requested for review. [Sec 20109a(6)]



DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENVIRONMENTAL RESPONSE DIVISION

\_\_\_\_\_  
Date received

*A complete application must be received by  
September 30, 1997 to be eligible for funding.*

## APPLICATION FOR THE MUNICIPAL LANDFILL COST-SHARE GRANT

Under the authority of 1994 PA 451, as amended.  
The Natural Resources and Environmental Protection Act

*Completion of this form is voluntary.*

*All requested information must be provided to participate in the program.*

1. Name of Municipal Solid Waste Landfill. "Municipal Solid Waste landfill" means a landfill that as of July 23, 1997 is on the national priority list or is proposed by the governor for inclusion on The National Priority List. [Sec. 20109a(15)(a)]

\_\_\_\_\_  
Name of Municipal Solid Waste Landfill

2. County in which the landfill is located. \_\_\_\_\_
3. Name of the local unit of government submitting the application, its contact person, street address, telephone number, and fax number. "Local unit of government" means a county, city, township, or village, an agency of a local unit of government, an authority or any other public body or entity created by or pursuant to state law. Local unit of government does not include the state or federal government or a state or federal agency. [Sec. 20101(1)(x)]

\_\_\_\_\_  
Name of local unit of government applicant

\_\_\_\_\_  
Name of contact person at local unit of government

\_\_\_\_\_  
Local unit of government address

\_\_\_\_\_  
City, state, zip code

\_\_\_\_\_  
Contact person's phone number

\_\_\_\_\_  
Contact person's fax number

4. Grant amount requested. \_\_\_\_\_

## APPLICATION FOR THE MUNICIPAL LANDFILL COST-SHARE GRANT

5. What is the period of time in which response activity costs have been incurred for which funding is sought with this application? \_\_\_\_\_
6. For what response activities are grant funds being requested in this application? Please reference the approved Record of Decision (ROD), Remedial Action Plan (RAP), workplan or court order pertaining to each activity?

ACTIVITY	REFERENCE APPROVED ROD/RAP/WORKPLAN
_____ Environmental Assessment _____	_____
_____ Risk Assessment: _____	_____
_____ Drinking Water Supply Replacement _____	_____
_____ Remedial Investigation, Phase: _____	_____
_____ Remedial Investigation, Phase: _____	_____
_____ Feasibility Design, Phase: _____	_____
_____ Feasibility Design, Phase: _____	_____
_____ Remedial Design, Phase: _____	_____
_____ Remedial Design, Phase: _____	_____
_____ Remedial Action Plan _____	_____
_____ Remedial Action, Phase: _____	_____
_____ Remedial Action, Phase: _____	_____
_____ Operation & Maintenance: _____	_____
_____ Demolition: _____	_____
_____ Other: _____	_____

7. What future response activity costs do you anticipate to incur and approximately when?

ACTIVITY	ESTIMATED COST /	EXPECTED START DATE /	EXPECTED COMPLETION DATE
_____ Environmental Assessment _____	_____	_____	_____
_____ Risk Assessment: _____	_____	_____	_____
_____ Drinking Water Supply Replacement _____	_____	_____	_____
_____ Remedial Investigation, Phase: _____	_____	_____	_____
_____ Remedial Investigation, Phase: _____	_____	_____	_____
_____ Feasibility Design, Phase: _____	_____	_____	_____
_____ Feasibility Design, Phase: _____	_____	_____	_____
_____ Remedial Design, Phase: _____	_____	_____	_____
_____ Remedial Design, Phase: _____	_____	_____	_____
_____ Remedial Action Plan _____	_____	_____	_____
_____ Remedial Action, Phase: _____	_____	_____	_____
_____ Remedial Action, Phase: _____	_____	_____	_____
_____ Operation & Maintenance: _____	_____	_____	_____
_____ Closure: _____	_____	_____	_____
_____ Demolition: _____	_____	_____	_____
_____ Other: _____	_____	_____	_____

## APPLICATION FOR THE MUNICIPAL LANDFILL COST-SHARE GRANT

8. Landfill size (in acres if known). \_\_\_\_\_

9. Please identify all public or private funds, other than this grant, that you have received for response activities at the landfill. The following sources should be considered.

\$/value rec'd    for what activity

_____	_____	Parties liable pursuant to Part 201
_____	_____	Parties liable pursuant to CERCLA
_____	_____	EPA
_____	_____	State of Michigan Environmental Protection Bond Funds
_____	_____	Michigan UST Financial Assurance (MUSTFA) Fund
_____	_____	Insurance(s): _____
_____	_____	Captured taxes: _____
_____	_____	Grants or loans other than this grant: _____
_____	_____	List Other sources:
_____	_____	_____
_____	_____	_____
_____	_____	_____

10. Are there any legal issues that may affect response activities at the landfill? If yes, briefly describe.

# APPLICATION FOR THE MUNICIPAL LANDFILL COST-SHARE GRANT

## ATTACHMENTS

All of the following attachments must be included for the application to be considered complete.

Attachment A:

A brief history of the landfill. [Sec. 20109a(4)(a)]

Attachment B:

An explanation of why the applicant incurred the response activity costs. [Sec. 20109a(4)(b)]

Attachment C:

A brief narrative description of the overall response activities completed or to be completed at the landfill. [Sec. 20109a(4)(d)]

Attachment D:

A list and narrative description of all eligible costs incurred by the applicant for which it is seeking a grant, including a demonstration that each eligible cost is consistent with a work plan or remedial action plan that has been approved by the department or the United States Environmental Protection Agency or has been ordered by a state or federal court. The demonstration shall relate each cost for which reimbursement is being sought to a specific element of the approved work plan or remedial action plan. A copy of the plan and documentation of approval or court order of the plan shall be included with the application. [Sec. 20109a(4)(e)(i)]

Attachment E:

Documentation that the costs have been incurred by the applicant, including itemized invoices that clearly list each cost and proof of payment of each invoice by the applicant. [Sec. 20109a(4)(e)(ii)] Copies of canceled checks suffice as proof of payment.

Attachment F:

A list of persons the applicant believes may be liable under section 20126 of Part 201 or the Comprehensive Environmental Response, Compensation, And Liability Act of 1980, Public Law 96-510, 94 Stat. 2767 (CERCLA) for a substantial portion of the response activity costs at the landfill, and any available supporting documentation. [Sec. 20109a(4)(f)] If the supporting documentation is a substantial amount, please refer to its location and availability to DEQ staff.

Attachment G:

An analysis of the local unit of government's insurance coverage for the response activity costs at the landfill and any available documentation that supports the analysis. [Sec. 20109a(4)(c)]

Attachment H:

A resolution passed by the governing body for the local unit of government attesting that it has not received reimbursement for any of the costs, for which it is seeking a grant, from any other sources. [Sec. 20109a(4)(iii)]

Attachment I:

A description of the applicant's competitive bid process and list of bidders. [Sec. 20109a(15)(c)(v)]

# APPLICATION FOR THE MUNICIPAL LANDFILL COST-SHARE GRANT

## CERTIFICATION OF APPLICATION

The undersigned, as the representative of the applicant, certifies that the applicant has complied with all applicable state and federal statutes and regulations in the conduct of response activities for which reimbursement is being sought under this grant.

The undersigned, as the representative of the applicant, also certifies that the information provided in this application and its attachments is true and complete to the best knowledge and belief of the applicant and the undersigned.

\_\_\_\_\_  
Typed name of authorized representative

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

***THREE COMPLETE COPIES*** of this application must be submitted to the DEQ by the deadline, including attachments, before the application will be considered complete. Please submit each application in a binder with each section and attachment separated by labeled tabs.

### SUBMIT APPLICATION FORMS TO:

MUNICIPAL LANDFILL COST-SHARE GRANT PROGRAM  
ENVIRONMENTAL RESPONSE DIVISION  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
P O BOX 30426  
LANSING MICHIGAN 48909-7926

### OR TO:

MUNICIPAL LANDFILL COST-SHARE GRANT PROGRAM  
ENVIRONMENTAL RESPONSE DIVISION  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
300 SOUTH WASHINGTON SQUARE  
LANSING MICHIGAN 48933

## APPENDIX

### SECTION 20109a OF PART 201 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451

#### **324.20109a Municipal landfill cost-share grant program.**

Sec. 20109a. (1) A municipal landfill cost-share grant program is established for the purpose of making grants to reimburse local units of government for a portion of the response activity costs at certain municipal solid waste landfills as provided in this section.

(2) The municipal landfill cost-share grant program shall be administered by the board. The board shall provide for at least 1 application cycle per fiscal year. Prior to each application cycle, the board shall develop written instructions for prospective applicants including the criteria that will be used in application review and approval.

(3) To be eligible for a cost-share grant under this section, the following requirements shall be met:

(a) The applicant is a local unit of government.

(b) The application is only for eligible response activity costs at a municipal solid waste landfill.

(c) The application is complete and submitted on a form provided by the board.

(d) The application is submitted by the deadline established by the board.

(4) A complete application shall include the following:

(a) The landfill name and brief history.

(b) The rationale that explains why the applicant incurred the response activity costs.

(c) An analysis of the local unit of government's insurance coverage for the response activity costs at the landfill and any available documentation that supports the analysis.

(d) A brief narrative description of the overall response activities completed or to be completed at the landfill.

(e) A list and narrative description of all eligible costs incurred by the applicant for which it is seeking a grant, including all of the following:

(i) A demonstration that each eligible cost is consistent with a work plan or remedial action plan that has been approved by the department or the United States environmental protection agency or has been ordered by a state or federal court. The demonstration shall relate each cost for which reimbursement is being sought to a specific element of the approved work plan or remedial action plan. A copy of the plan and documentation of approval or court order of the plan shall be included with the application.

(ii) Documentation that the costs have been incurred by the applicant, including itemized invoices that clearly list each cost and proof of payment of each invoice by the applicant.

(iii) A resolution passed by the governing body for the local unit of government attesting that it has not received reimbursement for any of the costs for which it is seeking a grant from any other sources.

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(f) A list of persons the applicant believes may be liable under section 20126 or the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510, 94 Stat. 2767 for a substantial portion of the response activity costs at the landfill and any available supporting documentation.

(5) The board shall allocate the funds available for cost-share grants under this section to eligible facilities according to the following criteria, which are listed in priority order:

(a) Facilities posing a risk to public health.

(b) Facilities posing a risk to the environment.

(c) Facilities in which the local unit of government has taken steps to identify environmental contamination at the facility or caused by the facility or facilities in which remedial action measures have been implemented in accordance with a remedial action plan approved by the department or the United States environmental protection agency.

(d) Facilities in which the local unit of government has implemented appropriate measures to effect proper closure of the facility.

(6) Once a complete application has been submitted and approved by the board, applications submitted by the same applicant for the same landfill, in subsequent application cycles shall only include updated information that was not in the original application, including all of the following:

(a) An updated list of eligible costs incurred by the applicant for which the applicant is seeking a grant and for which the applicant was not approved to receive grant funds in a preceding grant cycle.

(b) Supporting documentation that the costs have been incurred as described in subsection (4)(e)(ii).

(c) Any other information needed to update information in the original application.

(7) A cost-share grant under this section shall not exceed 50% of the total eligible costs.

(8) A local unit of government may not receive more than 1 grant for the same municipal landfill during each application cycle.

(9) A recipient of a cost-share grant under this section has an obligation to do all of the following:

(a) Provide timely notification to the department if it receives money or any other form of compensation from any other source to pay for or compensate the local unit of government for any of the response activity costs for which it is liable. Sources of money or compensation include, but are not limited to, the federal government, other liable persons, or insurance policies. The notice shall include all of the following:

(i) Source of the money or compensation.

(ii) Amount of money or dollar value of the compensation.

(iii) Why the local unit of government received the money or compensation.

(iv) Any conditions or terms associated with the money or compensation.

(v) A detailed estimate of the total eligible response costs at the landfill for which the local unit of government is seeking a grant that are consistent with a work plan or remedial action plan that has been approved by the department or the United States environmental protection agency or has been ordered by a state or federal court and documentation of those costs that have been incurred.



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(vi) Documentation of the costs incurred by the local unit of government to obtain the funds or compensation.

(vii) The amount of money to be repaid to the state based on the formula in subdivision (b).

(b) If the recipient receives money or compensation from any other source as described in subdivision (a), the recipient shall repay the department an amount of money not to exceed the grant amount based on the following formula:

(A minus B) multiplied by (C divided by D) with A, B, C, and D defined as follows:

A = The total amount of money received from the other source or dollar value of the compensation.

B = All reasonable costs incurred by the recipient to obtain the money or compensation.

C = The total amount of grant funds received.

D = The total amount of response activity costs that the applicant has or will incur that meet all of the following requirements:

(i) The costs are for response activities, excluding fees for the services of a licensed attorney.

(ii) The costs are required to implement a work plan or remedial action plan for the landfill that has been approved by the department or the United States environmental protection agency or ordered by a state or federal court. The work plan or remedial action plan can be a plan update that was approved or ordered subsequent to the plan that was included in the local unit of government's grant application.

(iii) The costs were or will be incurred by the local unit of government after the date of enactment of the amendatory act that added this section.

(iv) The department has determined that the costs incurred by a local unit of government are reasonable taking into consideration the rationale provided in the application, the existence of other persons liable under section 20126 or the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510, 94 Stat. 2767, and the need for the local unit of government to proceed with the response activity.

(v) The costs are for response activities that are or will be all or part of a cost-effective remedy consistent with this part.

(vi) The costs were or will be incurred for work that was competitively bid.

(vii) The costs, once incurred, can be documented with invoices and proof of payment by the local unit of government.

(c) All documentation of costs and the calculations and assumptions used by the recipient to determine the amount of money to be repaid shall be submitted to the board and are subject to review and approval by the board. The money shall be repaid to the department within 60 days of board approval of the documentation, calculations, and assumptions.

(d) Funds repaid to the department under this section shall be placed into the fund.

(10) To receive a cost-share grant under this section, approved applicants shall enter into an agreement with the board. The agreement shall contain at a minimum all of the following:

(a) A list of board-approved eligible costs for which the recipient will be reimbursed up to 50%.

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(b) The agreement period.

(c) A resolution passed by the governing body for the local unit of government committing to make reasonable efforts to pursue any insurance coverage for the eligible costs.

(d) Grant repayment provisions under subsection (9).

(11) Upon execution of a grant agreement, grant funds shall be disbursed by the department within 45 days.

(12) If a local unit of government fails to sign a grant agreement within 90 days of a written grant offer by the board, the board may cancel the grant offer. The local unit of government may not appeal or contest cancellation of a grant pursuant to this subsection.

(13) The existence of this grant program does not in any way affect the liability of any person under this part or any other state or federal law. The state, the board, and the fund are not liable or in any way obligated to make grants for eligible costs, if funds are not appropriated by the legislature for this purpose or if the funds are insufficient. The availability of this program shall not be used by any liable person as a basis to delay necessary response activities.

(14) Funds granted to local units of government under this section shall be considered response activity costs incurred by the state. The state may pursue recovery or a claim for contribution of the grant funds from persons other than the grant recipient who are liable under section 20126. In addition, a local unit of government may pursue recovery or a claim for contribution from persons liable under section 20126 for the costs it has incurred but for which it has not received grant funds. This subsection does not in any way affect a local unit of government's eligibility to make a claim for insurance for any response activity costs, including the costs for which it received a grant.

(15) As used in this section:

(a) "Municipal solid waste landfill" means a landfill that as of the effective date of this section is on the national priority list or is proposed by the governor for inclusion on the national priority list.

(b) "National priority list" has the meaning attributed to this term in section 105(a)(8)(b) of the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510, 94 Stat. 2767.

(c) "Eligible costs" or "eligible response activity costs" means response activity costs, excluding all fees for the services of a licensed attorney, that meet all of the following criteria:

(i) The costs have been incurred by a local unit of government after the date of enactment of the amendatory act that added this section.

(ii) The costs incurred by a local unit of government are reasonable taking into consideration the rationale provided in the application, the existence of other persons liable under section 20126 or the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510, 94 Stat. 2767, and the need for the local unit of government to proceed with the response activity.

(iii) The costs are consistent with a work plan or remedial action plan that was approved by the department or the United States environmental protection agency or was ordered by a state or federal court prior to the work being conducted.

(iv) The costs were incurred for response activities that are part of a cost-effective remedy consistent with the requirements of this part.

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(v) The costs were incurred for work that was competitively bid.

(16) This section shall not take effect until the earlier of the 2 following dates:

(a) The effective date of reauthorization of the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510, 94 Stat. 2767.

(b) Twelve months after the date of enactment of the amendatory act that added this section.

(17) Following reauthorization of the comprehensive environmental response, compensation, and liability act of 1980, Public Law 96-510, 94 Stat. 2767, if a federal cost-share program is established that is similar to the program in this section, a grant under this section shall not be made for any response activity cost until the United States environmental protection agency makes a final determination that the response activity cost will not be paid for under the federal program.

History: Add. 1996, Act 383, Imd. Eff. July 24, 1996.